United Nations A/68/68

General Assembly

Distr.: General
25 March 2013

Original: English

Sixty-eighth session
Item 140 of the preliminary list*
Scale of assessments for the apportionment of the expenses of the United Nations

Multi-year payment plans

Report of the Secretary-General

Summary

In its resolution 57/4 B, the General Assembly endorsed the conclusions and recommendations of the Committee on Contributions concerning multi-year payment plans, and in its resolutions 58/1 B, 59/1 B, 60/237, 61/237, 64/248 and 67/238 it reaffirmed that endorsement. In that connection, the Committee recommended that the Secretary-General be requested to provide information on the submission of such plans to the Assembly, through the Committee on Contributions. It also recommended that the Secretary-General be requested to submit an annual report to the Assembly, through the Committee on Contributions, on the status of the payment plans of Member States as at 31 December each year. The present report is submitted in compliance with those requests and provides information on the payment plan submitted earlier by Sao Tome and Principe and on the status of implementation of that plan as at 31 December 2012.

The General Assembly may wish to take note of the present report and to encourage Member States with significant arrears in contributions to consider submitting a multi-year payment plan.

* A/68/50.

13-27022 (E) 080413

Please recycle

I. Introduction

1. In its resolution 56/243 A, the General Assembly recognized that multi-year payment plans, subject to careful formulation, could be helpful in allowing Member States to demonstrate their commitment under Article 19 of the Charter of the United Nations to pay their arrears, thereby facilitating the consideration of applications for exemption by the Committee on Contributions, and requested the Secretary-General to propose guidelines for such multi-year payment plans through the Committee on Contributions.

2. After considering the report of the Secretary-General on multi-year payment plans (A/57/65) at its sixty-second session, in 2002 (see A/57/11, chap. IV.A, paras. 17-23), the Committee on Contributions agreed that Member States should be encouraged to submit such plans, which constitute a useful tool for reducing their unpaid assessed contributions and a way for them to demonstrate their commitment to meeting their financial obligations to the United Nations. The Committee recognized, in that regard, that due consideration should be given to the economic position of Member States, as not all of them might be in a position to submit such plans, and recommended that multi-year payment plans should remain voluntary and should not be automatically linked to other measures.

3. The Committee also recommended that Member States considering a multi year payment plan should submit such plans to the Secretary-General for the information of other Member States and be encouraged to consult the Secretariat for advice in their preparation. In that context, it was suggested that the plans of Member States should:

(a) Provide for annual payment of current-year assessments and a part of their arrears;

(b) Where possible, generally provide for the elimination of arrears within a period of up to six years.

4. The Committee further recommended that the Secretary-General should be requested to provide information on the submission of payment plans to the General Assembly, through the Committee, and that the Secretary-General also be requested to submit an annual report to the Assembly, through the Committee, on the status of such plans as at 31 December each year.

5. The Committee also recommended that, for those Member States that were in a position to submit a payment plan, the Committee and the General Assembly should take the submission of a plan and its status of implementation into account as one factor when they considered requests for exemption under Article 19 of the Charter.

6. In paragraph 1 of its resolution 57/4 B, the General Assembly endorsed the above conclusions and recommendations contained in the report of the Committee. In its resolutions 58/1 B, 59/1 B, 60/237, 61/237, 64/248 and 67/238, the Assembly reaffirmed paragraph 1 of resolution 57/4 B. Accordingly, the Secretary-General has submitted annual reports on multi-year payment plans[1] to the Assembly since its fifty-eighth session, when the first one was considered.

[1] A/58/63, A/59/67, A/60/66, A/61/68, A/62/70, A/63/68, A/64/68, A/65/65, A/66/69 and A/67/75.

II. Submission of multi-year payment plans

7. Payment plans or schedules were submitted by seven Member States, six of which have fully implemented their plans. The remaining payment plan was submitted by Sao Tome and Principe in 2002.

8. Payment plans were submitted by Georgia in 2003 (its fourth), Iraq in 2005 (its first), Liberia in 2006 (its second), the Republic of Moldova in 2001 (its third), the Niger in 2004 (its first), Sao Tome and Principe in 2002 (its first) and Tajikistan in 2000 (its first).

9. Liberia fully paid its arrears during the first half of 2012, thereby resulting in the full implementation of its plan. Tajikistan fully paid its arrears during the first half of 2009, thereby resulting in the full implementation of its plan in advance of the deadline dates set out in the seventh annual report. Georgia and the Niger fully paid their arrears during the first half of 2007, thereby resulting in full implementation of their plans in advance of the deadline dates specified in the fifth annual report. The schedule last proposed by the Government of the Republic of Moldova, as outlined in the fourth annual report, was fully implemented in 2005. A lump-sum payment by Iraq in 2005 also resulted in the full implementation of its plan in advance of the deadline dates specified in the fourth annual report.

10. In its resolution 64/248, the General Assembly took note with appreciation of the considerable efforts undertaken by those Member States that fully implemented their multi-year payment plans. In that resolution, and in its resolution 67/238, the Assembly also encouraged Member States in arrears with their assessed contributions to the United Nations to consider submitting multi-year payment plans.

11. In an announcement concerning the seventy-third session of the Committee on Contributions, to be included in the *Journal of the United Nations* from 1 February to 17 May 2013, the Secretariat has invited Member States intending to submit a multi-year payment plan to contact the Secretary of the Committee for further information. In addition, in the note issued pursuant to paragraph 3 of General Assembly resolution 60/237 concerning the application of Article 19 of the Charter, attention was drawn to the provisions of resolution 57/4 B. Should any other payment plans be submitted, related information will be provided in an addendum to the present report or in the report of the Committee to be submitted to the Assembly at its sixty-eighth session.

12. For the purposes of the present report, payments are taken to include cash payments by the Member States concerned, together with the application of any credits to their accounts arising during the period concerned.

Sao Tome and Principe

13. Under cover of his letter of 17 May 2002 addressed to the President of the General Assembly, the Chargé d'affaires a.i. of the Permanent Mission of Sao Tome and Principe to the United Nations submitted the calendar of future payments as follows:

(United States dollars)

	Payment
2002	27 237
2003	42 237
2004	59 237
2005	74 237
2006	89 237
2007	114 237
2008	134 237
2009	153 752

14. The plan submitted by Sao Tome and Principe had a duration of eight years, covering the period from 2002 to 2009, and, if fully implemented, would involve payments totalling $694,411.

III. Status of payment plans of Member States as at 31 December 2012

15. The status of implementation of the payment plan submitted by Sao Tome and Principe as at 31 December 2012 is summarized in the table below. The plans proposed by Georgia, Iraq, Liberia, the Niger, the Republic of Moldova and Tajikistan have been excluded, as those Member States have made the payments envisaged in their payment plans and no longer fall under the provisions of Article 19 of the Charter.

Status of payment plans as at 31 December 2012

(United States dollars)

	Payment plan	*Assessments as at 31 December*	*Payments/credits*	*Outstanding as at 31 December*
Sao Tome and Principe				
1999				570 783
2000		13 543	48	584 278
2001		14 254	157	598 375
2002	27 237	15 723	29 146	584 952
2003	42 237	17 124	929	601 147
2004	59 237	20 932	1 559	620 520
2005	74 237	24 264	202	644 582
2006	89 237	23 024	453	667 153
2007	114 237	32 524	810	698 867
2008	134 237	30 943	473	729 337
2009	153 752	35 400	682	764 055
2010		35 548	356	799 247

	Payment plan	Assessments as at 31 December	Payments/credits	Outstanding as at 31 December
2011		37 034	506	835 775
2012		29 713	2 193	863 295

16. Payments by the Government of Sao Tome and Principe have fallen below the level foreseen for the period from 2002 to 2009 in its schedule of payments. Payments and credits totalling $34,254 were applied during that period, compared with the anticipated payments totalling $694,411 for those years set out in its schedule. Credits amounting to $3,055 were applied during the period 2010-2012. The outstanding assessed contributions of Sao Tome and Principe at 31 December 2012 amounted to $863,295.

IV. Conclusions and recommendations

17. **The General Assembly may wish to take note of the present report and to encourage Member States with significant arrears in contributions to consider submitting a multi-year payment plan.**

United Nations A/68/69

General Assembly

Distr.: General
27 March 2013
English
Original: English and Spanish

Sixty-eighth session
Item 77 of the preliminary list*
Responsibility of States for internationally wrongful acts

Responsibility of States for internationally wrongful acts

Comments and information received from Governments

Report of the Secretary-General

I. Introduction

1. The International Law Commission adopted the articles on responsibility of States for internationally wrongful acts ("State responsibility articles") at its fifty-third session, in 2001. In its resolution 56/83 of 12 December 2001, the General Assembly took note of the State responsibility articles adopted by the Commission, the text of which was annexed to that resolution, and commended them to the attention of Governments, without prejudice to the question of their future adoption or other appropriate action.

2. In its resolutions 59/35 of 2 December 2004 and 62/61 of 6 December 2007, the Assembly requested the Secretary-General to invite Governments to submit their written comments on any future action regarding the articles. Following its consideration of the written comments received from Governments,[1] as well as the compilations of decisions prepared by the Secretary-General,[2] the General Assembly, in its resolution 65/19 of 6 December 2010, once again commended the State responsibility articles to the attention of Governments, without prejudice to the question of their future adoption or other appropriate action. The Assembly reiterated its request that the Secretary-General invite Governments to submit their written comments on any future action regarding the articles and also requested the Secretary-General to update the compilation of decisions of international courts, tribunals and other bodies referring to the articles. In addition, the Assembly decided to further examine, at its sixty-eighth session, within the framework of a working group of the Sixth Committee, and with a view to taking a decision, the

* A/68/50.

[1] See A/62/63 and Add.1 and A/65/96 and Add.1.

[2] See A/62/62 and Corr.1 and Add.1 and A/65/76.

13-27283 (E) 050413 170413

Please recycle

question of a convention on responsibility of States for internationally wrongful acts or other appropriate action on the basis of the articles.

3. By notes verbales dated 10 March 2011 and 19 January 2012, the Secretary-General invited Governments to submit, no later than 1 February 2013, their written comments on any further action regarding the State responsibility articles.

4. As at 27 March 2013, the Secretary-General had received written comments from Chile (dated 26 March 2013), El Salvador (dated 18 January 2013), Kenya (dated 2 February 2012), Lebanon (dated 19 October 2011), Panama (dated 19 April 2012) and Qatar (dated 26 June 2012). The comments by Chile, El Salvador and Qatar are reproduced below.[3]

II. Comments on any future action regarding the articles on responsibility of States for internationally wrongful acts

Chile

[Original: Spanish]
[26 March 2013]

With the submission of the draft articles in 2001, the International Law Commission concluded a long-term endeavour. Since that time, while Governments have been made aware of the articles, there has not been any significant progress towards their eventual adoption, demonstrating the complexity of reaching consensus on the issue. Moreover, States have invariably recognized the importance of the articles, seemingly demonstrating the importance they attach to this effort. As noted in the report of the Secretary-General containing a compilation of decisions of international courts, tribunals and other bodies (A/65/76), references to the articles have appeared in a range of jurisprudence, including that of, inter alia, the International Court of Justice, the Appellate Body of the World Trade Organization, international arbitration tribunals, the Court of Justice of the European Union, the European Court of Human Rights and the Inter-American Court of Human Rights.

In the view of Chile, the issue of State responsibility is one of the pillars of international law. The responsibility of States is a general principle of international law, just like the principle of good faith in relations between States and the *pacta sunt servanda* principle. States should be accountable at the international level for their internationally wrongful acts. The fact that the articles submitted by the Commission have not been enshrined in a binding legal framework, let alone the absence of a decision regarding their future adoption more than ten years after their submission, does not support the interpretation that the importance of the articles is recognized. Our Government is of the opinion that it is unacceptable that such an issue would figure in the deliberations of the Sixth Committee every three years without any progress being made on the resulting resolution adopted.

[3] Extracts from the comments by Kenya, Lebanon and Panama, pertaining to the content of the State responsibility articles, will be made available, for the information of delegations, on the website of the Sixth Committee at the sixty-eighth session of the General Assembly (www.un.org/en/ga/sixth/).

As Chile stated in 2012 in the Ad Hoc Working Group on the Revitalization of the Work of the General Assembly, the Sixth Committee could establish special groups or working groups on responsibility of States for internationally wrongful acts in order to identify existing problems with the draft articles, with a view to facilitating their future consideration in a conference or similar venue and eventual adoption in the form of a convention, in line with the proposal by the International Law Commission.

In addition, as a transitional measure, the possibility of the adoption of the draft articles by the General Assembly in the form of a declaration could be considered as a means of advancing the decisions taken in 2001 and as a step towards reaching the objective described above.

If such initiatives are not undertaken, the draft articles could remain in their current form indefinitely.

El Salvador

[Original: Spanish]
[18 January 2013]

The articles under review are the result of the arduous and methodical work of codification and progressive development undertaken by the International Law Commission over the past six decades. Eminent special rapporteurs and important jurists and delegates from the various States Members of the United Nations have participated in this process through their respective reports and the discussions in the Sixth Committee of the General Assembly. The articles are not merely an academic document; they also reflect international custom and the established jurisprudence of international courts by recognizing that every internationally wrongful act committed by a State entails the international responsibility of that State. This in turn is a direct product of the evolution of contemporary international law, which has abandoned the concept of the omnipotence of the State to focus on higher goals and values that are common to the international community as a whole.

The responsibility of States is a fundamental principle of international law, given that a sovereign State cannot engage with other subjects of international law without being held to a certain standard of conduct or facing the consequences of actions it undertakes as part of that engagement. Asserting otherwise would imply an absence of limitations and controls at the international level.

Specifically, the Republic of El Salvador believes that the broad range of primary rules in force at the international level should be complemented by an additional set of rules to regulate the consequences of violating those primary rules. Absent such additional rules, the regulatory system that would remain in place would be extensive, but would have no mechanisms for its enforcement.

In this regard, while the responsibility of States is an indisputable principle of a customary nature, which has already been incorporated into some international treaties, the only way to ensure greater uniformity and legal certainty for the content and scope of the concept is to have it codified. Such codification would also be highly beneficial for the development of international law and the peaceful settlement of disputes, because a system that sets out the legal consequences of unlawful acts, thus allowing for the safeguards and satisfactory outcomes demanded

by the rule of law, would curb the tendency to resort to the use of force, which has so far been prompted by dissatisfaction resulting from the ineffective handling of conflicts.

The numerous international obligations of States as subjects of international law must be accompanied by general rules on responsibility for internationally wrongful acts, which would constitute the complement needed to ensure the efficacy of international law, and consequently, the achievement of its objectives.

It is crucial to take concrete steps towards codification of the responsibility of States, which will have more lasting and beneficial effects than could be achieved with a declaration or a resolution. Therefore, the Republic of El Salvador reaffirms its position in support of holding an international conference aimed at drafting a convention on the responsibility of States for internationally wrongful acts, in order to make progress on the issue and strengthen one of the fundamental pillars of international law.[4]

Qatar

[Original: Arabic]
[26 June 2012]

Qatar continues to support the establishment by the General Assembly of a specialized committee or working group tasked with considering the question of the future application of the State responsibility articles and reporting back to the Assembly.[5] The General Assembly should adopt a declaration endorsed by all States. Such a declaration would be cited in the judgements of the various international courts and other international bodies and would thus serve to make the articles more consistent, thereby facilitating the subsequent adoption of an agreement on the responsibility of States for internationally wrongful acts.

---

[4] See A/65/96/Add.1.

[5] See A/65/96.